

Magistrate Judge Mary Alice Theiler

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE ORDER REQUIRING GOOGLE, INC.
TO ASSIST IN THE EXECUTION OF A
SEARCH WARRANT ISSUED BY THIS
COURT

NO. MJ15-00476

APPLICATION

(FILED UNDER SEAL)

INTRODUCTION

The United States of America, by and through Annette L. Hayes, United States Attorney, and Nicholas Manheim, Special Assistant United States Attorney, hereby moves this Court under the All Writs Act, 28 U.S.C. § 1651, for an order requiring Google, Inc. ("Google") to assist in the execution of a federal search warrant by bypassing the lock screens of an Android device, specifically, a Motorola XT1023.

FACTS

U.S. Homeland Security Investigations ("HIS") currently has in its possession the Android device that is the subject of a search warrant issued by this Court. Initial inspection of the Android device reveals that it is locked. Because the Android device is locked, law

1 enforcement agents are not able to examine the data stored on the Android device as commanded
2 by the search warrant.

3 The Android device is a Motorola Model #XT1023 with serial number
4 359301050376184 operating on an unknown network.

5 Google, the creator of the Android operating system and producer of the Android Device,
6 may have the capability of bypassing the Android Device's lock and thereby retrieving data
7 stored on the Android Device that is not currently accessible to HSI. This Application seeks an
8 order requiring Google to use any such capability, so as to assist agents in complying with the
9 search warrant.
10

11 The United States requests that the Court order that Google, if necessary, must reactivate
12 the Google account associated with the Android Device for the limited purpose of complying
13 with the search warrant.
14

15 Further, the United States requests that Google be directed to: (1) provide a single
16 password reset for the Android Device; (2) provide the new password to the law enforcement
17 officer executing the search warrant; and (3) upon unlocking the target Android Device, again
18 reset the Google account password promptly upon notice that the imaging of the phone is
19 complete, without providing it to the law enforcement officer or agency so as to prevent future
20 access.
21

22 Further, the United States represents that the reset process may not be unobtrusive to the
23 subject and that the subject may receive notice to one or more accounts of the reset.
24

25 Accordingly, the United States requests that the Court order that any such notice is not a
26 violation of any seal or nondisclosure requirement.
27

1 Finally, the United States does not seek authority to use the new password to attempt to
2 access the subject's online accounts other than as synchronized on, and stored in, memory within
3 the target Android Device at the time of execution of the warrant, and does not object to the
4 Court prohibiting such use of the password to be provided by Google.
5

6 DISCUSSION

7 The All Writs Act provides that "[t]he Supreme Court and all courts established by Act of
8 Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and
9 agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). As the Supreme Court
10 explained, "[t]he All Writs Act is a residual source of authority to issue writs that are not
11 otherwise covered by statute." *Pennsylvania Bureau of Correction v. United States Marshals*
12 *Service*, 474 U.S. 34, 43 (1985). "The power conferred by the Act extends, under appropriate
13 circumstances, to persons who, though not parties to the original action or engaged in
14 wrongdoing, are in a position to frustrate the implementation of a court order or the proper
15 administration of justice . . . and encompasses even those who have not taken any affirmative
16 action to hinder justice." *United States v. New York Tel. Co.*, 434 U.S. 159, 174 (1977).
17 Specifically, in *United States v. New York Tel. Co.*, the Supreme Court held that the All Writs
18 Act permitted district courts to order a telephone company to effectuate a search warrant by
19 installing a pen register. Under the reasoning of *New York Tel. Co.*, this Court has the authority
20 to order Google to use any capabilities it may have to assist in effectuating the search warrant for
21 the Android Device by unlocking the Android Device.
22

23 The government is aware, and can represent, that in other cases, courts have ordered
24 Google to assist in effectuating a search warrant by unlocking other Android Devices under the
25 authority of the All Writs Act. Additionally, Google has complied with such orders.
26

1 The requested order would enable agents to comply with this Court's warrant
2 commanding that the Android Device be examined for evidence identified by the warrant.
3 Examining the Android Device without Google's assistance, if it is possible at all, would require
4 significant resources and may harm the Android Device. Moreover, the order is not likely to
5 place any unreasonable burden on Google.
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7 DATED this 27th day of October, 2015.
8

9 Respectfully submitted,

10 ANNETTE L. HAYES
11 United States Attorney

12 /s/ Nicholas Manheim
13 Nicholas Manheim
14 Assistant U.S. Attorney
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